S.B. Criminal Misc. II Bail Application No. 4433/2005
(Surendra Kumar Vs. State of Rajasthan)

Date of Order: April 24, 2006

HON'BLE MR. H.R. PANWAR

Mr. S.S. Dhillon, for the petitioner.
Mr. JPS Chaudhary, Public Prosecutor for the State.
Mr. Rajesh Grewal, for the complainant.

This is second bail application filed by the petitioner. The first bail application came to be dismissed by this Court on 24-10-2005.

Heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that after rejecting the earlier bail application, the trial has not proceeded as the prosecutrix has not appeared despite bailable and non-bailable warrants issued against her. Learned counsel has filed certified copies of the order sheets of the trial Court, as also the report made on the warrant to secure the presence of the prosecutrix before the court to make statement.

From the report on the warrant, it shows that the mother of the prosecutrix informed to the police official, who went to execute the warrant issued against the prosecutrix to appear as a witness, stated that the prosecutrix fled away with somebody 15 to 20 days ago. A copy of the affidavit of the prosecutrix has also been filed wherein she stated her age as 19

years, with the allegation against her mother that her mother want her to go for prostitution and, therefore, she voluntarily left the house and went with some other person.

From the various reports, it also appears that the prosecutrix solemnized marriage with one Kalu S/o Babu Lal, which is evident from the note on the warrant issued for securing the presence of the prosecutrix to make statement before the trial Court on 7-4-2006. This note has been endorsed by the trial Court even on the new address of Kalu, with whom the prosecutrix is said to have contacted marriage, that on search by the police to execute the warrant, neither Kalu, nor the prosecutrix, wasfound there.

Learned counsel for the petitioner submits that the whereabouts of the prosecutrix is unknown and she is avoiding her appearance and wants to keep the petitioner behind the bars for indefinte period.

Keeping in view the fat that after rejecting the earlier bail application, more than six months have elapsed and it is not certain when the prosecutrix will appear as her whereabouts are not known, and also keeping in view the endorsement made on th warrant and the report made by the police official on the warrant which could not be executed on the prosecutrix, I think it just and proper to enlarge the accused-petitioner on bail.

Accordingly, this second bail application filed under

Section 439 Cr.P.C. is allowed and it is directed that petitioner Surendra Kumar S/o Ramchandra be released on bail in FIR No. 189/2005, Police Station, Hanumangarh Junction, provided he executes a personal bond for a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of the learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R. PANWAR), J.

mcs